



General Assembly

January Session, 2011

***Raised Bill No. 1184***

LCO No. 4545

\*04545\_\_\_\_\_PH\_\*

Referred to Committee on Public Health

Introduced by:  
(PH)

***AN ACT CONCERNING HEALTH CARE FACILITIES.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 19a-494a of the general statutes is repealed and  
2 the following is substituted in lieu thereof (*Effective October 1, 2011*):

3 If the Commissioner of Public Health finds that the health, safety or  
4 welfare of any patient [or patients] served by an institution [, as  
5 defined in subsections (d) and (e) of section 19a-490,] imperatively  
6 requires emergency action, [and he incorporates a finding to that effect  
7 in his order, he] the commissioner may issue a summary order  
8 incorporating such finding to the holder of a license issued pursuant to  
9 section 19a-493 pending completion of any proceedings conducted  
10 pursuant to section 19a-494, as amended by this act. [These] Such  
11 proceedings shall be promptly instituted and determined. The [orders  
12 which the] commissioner may issue [shall include] orders including,  
13 but not [be] limited to: (1) Revoking or suspending the license; (2)  
14 prohibiting such institution from contracting with new patients or  
15 terminating its relationship with current patients; (3) limiting the  
16 license of such institution in any respect, including reducing the

17 patient capacity or services which may be provided by such  
18 institution; and (4) compelling compliance with the applicable statutes  
19 or regulations of the department. For purposes of this section,  
20 "institution" means the entities defined in subsections (b) to (h),  
21 inclusive, (k) and (l) of section 19a-490.

22       Sec. 2. (NEW) (*Effective October 1, 2011*) (a) (1) If the Commissioner  
23 of Public Health determines, upon an inquiry, examination,  
24 investigation or inspection made pursuant to section 19a-498 of the  
25 general statutes, that a hospital, as defined in section 19a-490 of the  
26 general statutes, has violated any provision of the general statutes or  
27 any regulation in the Public Health Code or the State Fire Safety Code  
28 relating to the operation or maintenance of a hospital, the  
29 commissioner may impose a civil penalty of not more than twenty-five  
30 thousand dollars for each violation.

31       (2) If the commissioner determines, upon an inquiry, examination,  
32 investigation or inspection made pursuant to section 19a-498 of the  
33 general statutes, that an institution has violated any provision of the  
34 general statutes or any regulation in the Public Health Code or the  
35 State Fire Safety Code relating to the operation or maintenance of an  
36 institution, the commissioner may impose a civil penalty of not more  
37 than three thousand dollars for each violation. For purposes of this  
38 section, "institution" has the same meaning as provided in section 19a-  
39 490 of the general statutes, but does not include hospitals, residential  
40 care homes, nursing homes and rest homes.

41       (b) In setting a civil penalty pursuant to subsection (a) of this  
42 section, the commissioner shall consider all factors that the  
43 commissioner deems relevant, including, but not limited to:

44       (1) The amount of assessment necessary to ensure immediate and  
45 continued compliance;

46       (2) The character and degree of impact of the violation on the health,  
47 safety and welfare of any patient in the hospital or institution;

48       (3) The conduct of the hospital or institution against whom the civil  
49       penalty is assessed in taking all feasible steps or procedures necessary  
50       or appropriate to comply or to correct the violation; and

51       (4) Any prior violations by the hospital or institution of the general  
52       statutes, any regulation in the Public Health Code, or the State Fire  
53       Safety Code, or orders administered, adopted or issued by the  
54       Commissioner of Public Health.

55       (c) If the commissioner determines that a violation has occurred for  
56       which a civil penalty is authorized by this section, the commissioner  
57       shall send to the hospital or institution, by certified mail, return receipt  
58       requested, or personal service, a notice which shall include:

59       (1) A reference to each general statute or regulation that the hospital  
60       or institution has allegedly violated;

61       (2) A short and plain statement of the alleged violations;

62       (3) A statement of the amount of the civil penalty or penalties that  
63       may be imposed upon finding after hearing that a violation has  
64       occurred or upon a default; and

65       (4) A statement of the party's right to a hearing to contest the  
66       commissioner's determination.

67       (d) The hospital or institution to whom the notice is addressed shall  
68       have three days from the date of receipt of the notice, excluding  
69       Saturdays, Sundays and legal holidays, as defined in section 1-4 of the  
70       general statutes, to submit a written request to the commissioner for a  
71       hearing to contest the imposition of a civil penalty. If a hearing is  
72       requested, the commissioner may issue a final order after a hearing  
73       and, upon a finding that a violation has occurred, may assess a civil  
74       penalty under this section which shall be no greater than the penalty  
75       stated in the notice. If a hospital or institution does not request a  
76       hearing within such three-day period, or if a request for a hearing is  
77       later withdrawn, then the notice shall become a final order of the

78 commissioner, effective upon the expiration of such three-day period  
79 or on the first day after the withdrawal of such request for hearing,  
80 whichever is later, and the matters asserted or charged in the notice  
81 shall be deemed admitted unless modified by a consent order, which  
82 shall become the final order.

83 (e) Any hearing under this section shall be conducted pursuant to  
84 chapter 54 of the general statutes. Any penalty assessed pursuant to  
85 this section may be mitigated or waived by the commissioner upon  
86 such terms and conditions as the commissioner deems proper or  
87 necessary after consideration of (1) the factors set forth in subsection  
88 (b) of this section, and (2) any extenuating factors or circumstances.  
89 The commissioner may grant an extension of time for filing required  
90 information or data.

91 (f) A final order of the commissioner assessing a civil penalty shall  
92 be subject to appeal as set forth in section 4-183 of the general statutes  
93 after a hearing held pursuant to subsection (e) of this section, except  
94 that any such appeal shall be taken to the superior court for the judicial  
95 district of New Britain and shall have precedence in the order of trial  
96 as provided in section 52-191 of the general statutes. Such final order  
97 shall not be subject to appeal under any other provision of the general  
98 statutes. No challenge to any final order of the commissioner assessing  
99 a civil penalty shall be allowed as to any issue which could have been  
100 raised by an appeal of an earlier order, notice, permit, denial or other  
101 final decision by the commissioner.

102 (g) If any hospital or institution fails to pay any civil penalty, the  
103 Attorney General, upon request of the Commissioner of Public Health,  
104 may bring an action in the superior court for the judicial district of  
105 Hartford to obtain enforcement of the penalty by the court. All actions  
106 brought by the Attorney General pursuant to the provisions of this  
107 section shall have precedence in the order of trial as provided in  
108 section 52-191 of the general statutes.

109 Sec. 3. Subsection (a) of section 19a-494 of the general statutes is

110 repealed and the following is substituted in lieu thereof (*Effective*  
111 *October 1, 2011*):

112 (a) The Commissioner of Public Health, after a hearing held in  
113 accordance with the provisions of chapter 54, may take any of the  
114 following actions, singly or in combination, in any case in which [he]  
115 the commissioner finds that there has been a substantial failure to  
116 comply with the requirements established under this chapter, the  
117 Public Health Code [and] or licensing regulations:

118 (1) Revoke a license or certificate;

119 (2) Suspend a license or certificate;

120 (3) Censure a licensee or certificate holder;

121 (4) Issue a letter of reprimand to a licensee or certificate holder;

122 (5) Place a licensee or certificate holder on probationary status and  
123 require him to report regularly to the department on the matters which  
124 are the basis of the probation;

125 (6) Restrict the acquisition of other facilities for a period of time set  
126 by the commissioner; [and]

127 (7) Issue an order compelling compliance with applicable statutes or  
128 regulations of the department;

129 (8) Impose a directed plan of correction; or

130 (9) Impose a civil penalty.

131 Sec. 4. Subsection (c) of section 19a-491 of the general statutes is  
132 repealed and the following is substituted in lieu thereof (*Effective July*  
133 *1, 2011*):

134 (c) [Notwithstanding any regulation to the contrary, the] The  
135 Commissioner of Public Health shall charge the following fees for the

136 biennial licensing and inspection of the following institutions: (1)  
 137 Chronic and convalescent nursing homes, per site, four hundred forty  
 138 dollars; (2) chronic and convalescent nursing homes, per bed, five  
 139 dollars; (3) rest homes with nursing supervision, per site, four hundred  
 140 forty dollars; (4) rest homes with nursing supervision, per bed, five  
 141 dollars; (5) outpatient dialysis units and outpatient surgical facilities,  
 142 six hundred twenty-five dollars; (6) mental health residential facilities,  
 143 per site, three hundred seventy-five dollars; (7) mental health  
 144 residential facilities, per bed, five dollars; (8) hospitals, per site, nine  
 145 hundred forty dollars; (9) hospitals, per bed, seven dollars and fifty  
 146 cents; (10) nonstate agency educational institutions, per infirmary, one  
 147 hundred fifty dollars; [and] (11) nonstate agency educational  
 148 institutions, per infirmary bed, twenty-five dollars; (12) home health  
 149 care agencies, per site, three hundred dollars and, for each additional  
 150 office, one hundred dollars; (13) homemaker-home health aide agency,  
 151 per site, two hundred dollars; and (14) assisted living services  
 152 agencies, per site, five hundred dollars.

153 Sec. 5. Subsection (f) of section 19a-491 of the general statutes is  
 154 repealed and the following is substituted in lieu thereof (*Effective July*  
 155 *1, 2011*):

156 (f) The commissioner shall charge a fee of [five hundred sixty-five  
 157 dollars] one thousand two hundred dollars for a hospital and seven  
 158 hundred dollars for an institution other than a hospital for the  
 159 technical assistance provided for the design, review and development  
 160 of a hospital's or an institution's construction, sale or change in  
 161 ownership. The commissioner shall charge a fee of two hundred fifty  
 162 dollars for a hospital and one hundred fifty dollars for an institution  
 163 other than a hospital for each on-site visit.

164 Sec. 6. Subsection (e) of section 19a-632 of the general statutes is  
 165 repealed and the following is substituted in lieu thereof (*Effective July*  
 166 *1, 2011*):

167 (e) If any assessment is not paid when due, [a late fee of ten dollars

168 shall be added thereto and interest at the rate of one and one-fourth  
 169 per cent per month or fraction thereof shall be paid on such assessment  
 170 and late fee] the commissioner shall impose a fee equal to (1) two per  
 171 cent of the assessment if such failure to pay is for not more than five  
 172 days, (2) five per cent of the assessment if such failure to pay is for  
 173 more than five days but not more than fifteen days, or (3) ten per cent  
 174 of the assessment if such failure to pay is for more than fifteen days. If  
 175 a hospital fails to pay any assessment for more than thirty days after  
 176 the date when due, the commissioner may, in addition to the fees  
 177 imposed pursuant to this subsection, impose a civil penalty of up to  
 178 one thousand dollars per day for each day past the initial thirty days  
 179 that the assessment is not paid. Any civil penalty authorized by this  
 180 subsection shall be imposed by the commissioner in accordance with  
 181 subsections (b) to (e), inclusive, of section 19a-653, as amended by this  
 182 act.

183 Sec. 7. Subsection (b) of section 19a-653 of the general statutes is  
 184 repealed and the following is substituted in lieu thereof (*Effective July*  
 185 *1, 2011*):

186 (b) If the Department of Public Health has reason to believe that a  
 187 violation has occurred for which a civil penalty is authorized by  
 188 subsection (a) of this section, or subsection (e) of section 19a-632, as  
 189 amended by this act, it shall notify the person or health care facility or  
 190 institution by first-class mail or personal service. The notice shall  
 191 include: (1) A reference to the sections of the statute or regulation  
 192 involved; (2) a short and plain statement of the matters asserted or  
 193 charged; (3) a statement of the amount of the civil penalty or penalties  
 194 to be imposed; (4) the initial date of the imposition of the penalty; and  
 195 (5) a statement of the party's right to a hearing.

196 Sec. 8. Subsection (a) of section 19a-631 of the general statutes is  
 197 repealed and the following is substituted in lieu thereof (*Effective July*  
 198 *1, 2011*):

199 (a) As used in this section, [and] section 19a-632, as amended by this

200 act, and sections 9 and 10 of this act, "hospital" means each hospital  
201 subject to the provisions of this chapter and licensed as a short-term  
202 acute-care general hospital or a children's hospital or both by the  
203 Department of Public Health.

204       Sec. 9. (NEW) (*Effective July 1, 2011*) (a) For purposes of this section,  
205 "electronic funds transfer" has the same meaning as provided in  
206 section 12-685 of the general statutes.

207       (b) The Department of Public Health may require a hospital to pay  
208 an assessment levied pursuant to section 19a-632 of the general  
209 statutes, as amended by this act, by way of an approved method of  
210 electronic funds transfer.

211       (c) A hospital making an electronic funds transfer pursuant to this  
212 section shall initiate such transfer in a timely fashion to ensure that a  
213 bank account designated by the department is credited by electronic  
214 funds transfer for the amount of the assessment required to be made  
215 by such method on or before the date such assessment is due.

216       (d) Where an assessment is required to be made by electronic funds  
217 transfer, any payment made by a method other than electronic funds  
218 transfer shall be treated as an assessment not made in a timely manner,  
219 and any payment made by electronic funds transfer, where the bank  
220 account designated by the department is not credited for the amount  
221 of the assessment on or before the date such assessment is due, shall be  
222 treated as an assessment not made in a timely manner. Any assessment  
223 treated under this subsection as an assessment not made in a timely  
224 manner shall be subject to a penalty in accordance with subsection (e)  
225 of this section.

226       (e) Where any assessment is treated under subsection (d) of this  
227 section as an assessment not made in a timely manner because it is  
228 made by means other than electronic funds transfer, there shall be  
229 imposed a penalty equal to ten per cent of the assessment required to  
230 be made by electronic funds transfer. Where any assessment made by



231 electronic funds transfer is treated under subsection (d) of this section  
 232 as an assessment not made in a timely manner because the bank  
 233 account designated by the department is not credited by electronic  
 234 funds transfer for the amount of the assessment on or before the date  
 235 such assessment is due, there shall be imposed a penalty equal to (1)  
 236 two per cent of the assessment required to be made by electronic funds  
 237 transfer, if such failure to pay by electronic funds transfer is for not  
 238 more than five days; (2) five per cent of the assessment required to be  
 239 made by electronic funds transfer, if such failure to pay by electronic  
 240 funds transfer is for more than five days but not more than fifteen  
 241 days; or (3) ten per cent of the assessment required to be made by  
 242 electronic funds transfer, if such failure to pay by electronic funds  
 243 transfer is for more than fifteen days.

244 (f) The department shall deposit all payments received pursuant to  
 245 this section with the State Treasurer. The moneys so deposited shall be  
 246 credited to the General Fund and shall be accounted for as expenses  
 247 recovered from hospitals.

248 Sec. 10. (NEW) (*Effective from passage*) Not later than September 30,  
 249 2012, and quarterly thereafter, each hospital shall file with the  
 250 Commissioner of Public Health a statement of operations and  
 251 utilization statistics as specified in regulations adopted by the  
 252 commissioner. Not later than July 1, 2012, the commissioner shall  
 253 adopt regulations, in accordance with chapter 54 of the general  
 254 statutes, to establish the content required in said statement.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2011</i>	19a-494a
Sec. 2	<i>October 1, 2011</i>	New section
Sec. 3	<i>October 1, 2011</i>	19a-494(a)
Sec. 4	<i>July 1, 2011</i>	19a-491(c)
Sec. 5	<i>July 1, 2011</i>	19a-491(f)
Sec. 6	<i>July 1, 2011</i>	19a-632(e)
Sec. 7	<i>July 1, 2011</i>	19a-653(b)

Sec. 8	<i>July 1, 2011</i>	19a-631(a)
Sec. 9	<i>July 1, 2011</i>	New section
Sec. 10	<i>from passage</i>	New section

***Statement of Purpose:***

To increase the Department of Public Health's ability to: Issue summary orders when patients are at risk, impose civil penalties on health care institutions for violations of statutes and regulations, collect fees from health care providers for licensing, inspections and technical visits, impose late fees when hospitals fail to pay assessments on time, and collect statistics from hospitals.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*